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# THE CHANGING SENATE

BY GEORGE H. HAYNES

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ON the last day of May, 1913, there was witnessed in Washington the closing scene in a long struggle for change in our rigid Constitution. Secretary Bryan signed the formal announcement of the Seventeenth Amendment of the Constitution, providing for the direct election of Senators.

When the Constitution was under debate in the Federal Convention, outspoken advocacy of the election of Senators by direct vote of the people came from James Wilson alone. The great majority of the members accepted Madison's view, that in the election of the Senate there should be a "refining of the popular appointment by successive filtrations." But in recent years the conviction has been spreading that State Legislatures long ago ceased to "function" effectively as filters for popular appointment in the election of Senators. The result has been the enactment of the Seventeenth Amendment. Its course has been unique; for in regard to no other possible amendment could two of the bodies having part in its enactment be to the same extent parties in interest: in passing upon the proposal, members of the United States Senate were voting for or against a measure which might seriously affect their individual chances of re-election, to say nothing of its effects upon the spirit, prestige, and power of the Senate; moreover, members of State Legislatures, in voting to ratify the amendment were at the same time voting to deprive the Legislatures of a power which had greatly enhanced the influence of State legislators in national party relations. Hence, although the proposed amendment had been approved six times, at intervals between 1893 and 1911, by overwhelming majorities in the House of Representatives, until 1911 it was never allowed to come to a vote in the Senate. At the first session of the Sixty-second Congress, less than four months after

its defeat by four votes in the Senate, it was approved by a vote of 64 to 24 (June 12, 1911). By that time it had become evident that the amendment was in accord with a rising and imperative public sentiment. And to that public sentiment the State Legislatures made haste to defer: in less than twenty-two months after the Senate gave its approval, the Legislatures of thirty-six States—the requisite three-fourths—had ratified the amendment.

No student of politics and no alert, public-spirited American citizen can fail to watch with interest and concern for the effects which this latest change in our Constitutional law is to produce. Is it an epoch-making reform? Will it work a revolution in the personnel of the Senate? Will the charge cease to be made that "predatory wealth" finds in the Senate its strongest fortress?

The Senate of the Sixty-third Congress is the last Senate to be elected by the State Legislatures. Already several vacancies have been filled by direct vote of the people, and with November of 1914 the regular schedule of such elections goes into full effect. But the ninety-six men who originally constituted it were all placed in office by the now discredited and discarded mode of election. Who, then, are these men? What do they represent? What has been their educational training, their business and political experience? What, under the old mode of election, made them available candidates? Few of these questions can be answered with completeness or with any great degree of accuracy. Nevertheless, the writer believes that when studies are made of the Senate of a score of years hence, it will then be of interest, as a basis for comparison, to revert to certain easily ascertained facts as to the personnel of the last Senate elected by the process ordained by the framers of the Constitution.

Of the ninety-six original members of this Senate, all but five are native-born American citizens. The exceptions are: Senators Nelson (Minnesota), Norway; Gallinger (New Hampshire), Canada; Hughes (New Jersey), Ireland; Sutherland (Utah), England; and Stephenson (Wisconsin), New Brunswick. Forty-five of the Senators are sons of the State which they represent. Ohio may claim the title, "Mother of Senators," for seven of her sons are in the present Senate. Kentucky has sent six, and Mississippi six, including, by strange coincidence, both of the Nevada Sena-

tors. Fifth on the list is Indiana, with five to her credit. Tennessee, New York, North Carolina, and Virginia have each sent four.

The Senate belies its name, for it is no longer a body of ancients. The average age of its members during its first session was 57.2 years, just two and one-half years younger than the average age of Senators in the Fifty-eighth Congress (1904). But averages tell little; the grouping of Senators by decades is more informing. Three members were between thirty and forty years of age; seventeen between forty-one and fifty; forty-one between fifty-one and sixty; twenty-eight between sixty-one and seventy; six between seventy-one and eighty, and one over eighty-one. It will be observed that sixty-two, almost exactly two-thirds, had not passed the age of sixty, while only twenty-two had passed sixty-five, and but seven the threescore years and ten. Evidence of the rejuvenescence of the Senate is found in the comparative age-percentages of the Sixty-third and the Fifty-eighth Congresses.

PERCENTAGE OF SENATORS IN FIVE-YEAR AGE-GROUPS

	30-35	36-40	41-45	46-50	51-55	56-60	61-65	66-70	71-75	76-80	81-85
Senate, 1904. . .	0	0	8.88	6.66	20.00	16.66	16.66	16.66	8.88	5.55	0
Senate, 1913. . .	1.04	2.08	11.46	6.25	27.08	15.62	13.54	15.62	5.21	1.04	1.04

The juveniles in the Senate are Luke Lea, Tennessee, aged thirty-four; Morris Sheppard, Texas, aged thirty-eight; and H. F. Ashurst, Arizona, aged thirty-nine; while the Nestor—in years, at least—is Isaac Stephenson, of Wisconsin, aged eighty-four.

Not a few of the biographical sketches give no clue as to the schooling of their subjects, and educational terminology in the United States is so far from standardized that these data are not of much significance. It is of interest to note that sixty-four, or exactly two-thirds, are men trained in college or professional school. West Point and Annapolis are each represented by a graduate; one had been trained in a normal school; nine had finished their schooling in a high-school or academy, while seven—some with obvious pride—state that they have had the advantage only of the common schools, and describe themselves as self-educated.

A military record has often proved of help in politics. The present Senate contains five veterans of the Union army, five of the Confederate army, and five who saw service in the war with Spain. The ravages of time are indicated

by the contrast between these figures and those of the one hundred and fifty-nine Senators in the five Congresses ending with the Fifty-eighth. Of them, fifty-one, or practically one in three, had seen service in the Civil War.

As to the Senators' occupations or professions, the most striking thing is the preponderance of lawyers; sixty-nine out of the ninety-six declared the law to be their profession, while several others have studied law and been in its active practice at some period in their lives. Next on the list are the farmers and planters, represented by six members. Five journalists—an exceptionally large proportion—are now in the Senate. The list also includes three bankers or brokers, two concerned with mercantile interests, two physicians, one manufacturer, one real-estate broker, one member devoted to "literature," and one "retired." One Western Senator had been for several years superintendent of the State insane asylum.

Some Senators' careers have been so varied that it is difficult to classify them. For example, Senator Ashurst states that he "has pursued the following occupations: lumber-jack, cowboy, clerk, and cashier in store, newspaper reporter, hod-carrier, and lawyer." Apparently he might have added, "humorist."

The proportion of lawyers has not increased materially in recent years, but the type has changed. In place of the statesman-lawyer who had received his training in general practice, there now come the legal specialists, for the most part in the field of corporation law—keener critics, it may well be, of the practicability of certain measures, but with a narrowed interest and outlook.

In explaining the power and prestige attained by the United States Senate, as compared with our House of Representatives, and with upper chambers in the legislatures of other countries, publicists have been wont to emphasize the long term, with the probability of re-election, owing to various causes, particularly to the influence which the Senator acquires in State politics as the fount of Federal patronage. We have grown accustomed to think of the Senate as an assemblage of "Conscript Fathers," possessing a dignity, an *esprit de corps*, arising largely from many years of close association in the Senate's work. There readily come to mind many long and notable careers in the Senate, ended within the present generation: J. S. Morrill, thirty-

one years; G. F. Hoar, twenty-seven years; John Sherman, thirty-two years, and W. B. Allison, thirty-five years. But when the Senate organized for the first session of the present Congress (April, 1913) it was by no means a body of men who had grown old in service together. The dean of the Senate is Jacob H. Gallinger, of New Hampshire, who began his Senatorial service March 4, 1891. His oldest colleagues in point of service are Henry Cabot Lodge, of Massachusetts, and George C. Perkins, of California, who entered the Senate two years later. Only fifteen men in the Senate had served more than two full terms: only twenty-six out of the ninety-six had completed more than six years—*i. e.*, less than twenty-seven per cent. of the members had rounded out the length of a single term. In the present Congress the service of forty-seven of the ninety-six members—practically one-half—dates no further back than March 4, 1911, a period no longer than the term for which a Representative is elected. Twenty-three of them had made their *début* in the Senate since January 1, 1913. In comparison with these figures it is significant to note that when the Fifty-ninth Congress convened in 1905, of its eighty-nine Senators only thirteen were without Senatorial experience; forty-one had served at least one previous term in that body, eleven had been in continuous service in the Senate from ten to fifteen years; seven others from fifteen to twenty years, and five others from twenty-five to thirty-three years.

The Senate is apparently becoming more like the House both in type or personnel, and also in the rate of "rotation" in office. Both changes are doubtless to be traced mainly to the same causes. The contrasts in the development of the Senate and of the House in the matter of continuity of service are indicated by these percentages, taken at an interval of fifteen years.

#### CONTINUITY OF SERVICE IN SENATE AND HOUSE

	Percentage of members who had served			
	Senate 10 years	Senate 6 years	House 10 years	House 6 years
1896.....	32%	47%	8%	18%
1911.....	21	35	20	38

#### PREVIOUS SERVICE OF REPRESENTATIVES

	None	One Term	More than One Term
1896.....	47%	27%	26%
1911.....	30	16	54

In the Sixty-second Congress forty-one per cent. of the members of the House had served six or more years in that body, while only thirty-six per cent. of the members of the Senate had served that length of time. As recently as 1903 it was estimated that "the likelihood that a Senator will be re-elected at least once is about two to one, and the average service of a Senator appears to be about twelve years," whereas the average term in the House is "not more than four or five years." The figures in regard to two particular Congresses separated by fifteen years above cited do not warrant positive assertions, but they do afford strong evidence that the Senator's hold upon his seat is becoming more precarious at the very time when constituents are coming to appreciate to a greater degree the increased benefit that accrues to the district and to the public service from longer continuity of service for their members in the House.<sup>1</sup>

What other political experience had the Senators had? The lower branch of Congress often serves as a training-school for the Senate, and most of its members would gladly give ear to a call to enter the upper chamber. Of the present Senate thirty-five members had seen previous service in the House. The extent of such experience is indicated by the following table:

EXPERIENCE OF SENATORS IN HOUSE OF REPRESENTATIVES

Number of terms....	1	2	3	4	5	6	7	8	9	10
Senators .....	5	2	8	4	7	2	3	3	0	1

The men who had served eight terms are Senator Smith of Arizona, Senator Williams of Mississippi, and Senator Burton of Ohio. The veteran of ten terms is Senator Bankhead of Alabama, who was projected into the Senate by the incursion of Commander R. P. Hobson into politics. Three of the present Senators have served in the Cabinet, Senator Root, Secretary of War, 1899 to 1904; Secretary of State, 1905 to 1909; Senator Goff, Secretary of the Navy, 1881; and Senator Hoke Smith, Secretary of the Interior,

<sup>1</sup> This lengthening of service of members of the House is not indicated so clearly in the figures of the present Congress, to which one hundred and forty-nine out of the four hundred and thirty-five Representatives, or thirty-four per cent., came as *débutants*. It is to be remembered, however, that at the election which constituted this Congress a new apportionment went into effect, which raised the membership of the House from three hundred and ninety-one to four hundred and thirty-five. Since forty-four additional seats were to be filled, it was inevitable that the proportion of new members in this Congress should be exceptionally large.

1893 to 1896. Six have served as Presidential electors, nine as members of Republican or Democratic National Committees, and twenty-six as delegates to party National Conventions. Thirty-six out of the ninety-six make record of their preliminary training for their present position by service in State Legislatures.<sup>1</sup>

Just one in four of the members of the Senate had served as Governors of the States they represent. This is noticeably an increasing proportion, and the change is significant. Of the one hundred and fifty-nine Senators who served in the five Congresses from the Fifty-fourth to the Fifty-eighth, inclusive (1895 to 1905), twenty-eight, or only 17.5 per cent., had been Governors. The list in the present Senate is as follows:

## SENATORS WHO HAD BEEN GOVERNORS

SOUTHERN STATES	WESTERN STATES	MIDDLE STATES	NORTH ATLANTIC STATES
Johnston (Ala.).	Perkins (Cal.).	Cummins (Iowa).	McLean (Ct.).
Clarke (Ala.).	Thomas (Col.).	Nelson (Minn.).	Dillingham (Vt.).
Robinson (Ark.). <sup>2</sup>	Shafroth (Col.).	Stone (Mo.).	Page (Vt.).
Smith (Ga.).	Brady (Idaho).	La Follette (Wis.).	
Bradley (Ky.).	Chamberlain (Ore.).		
Smith (Md.).	Crawford (S. D.).		
Vardaman (Miss.).	Warren (Wyo.).		
Tillman (S. C.).			
Swanson (Va.).			
Culberson (Tex.).			

It will be observed that this apparently growing tendency to send Governors to the Senate is very noticeable in the West, and especially in the South. In most of these instances these men made their contest for the Senatorship while still holding office as Governor, and their record in that office served as the basis for their campaign. Several of these contests are of recent, though not in all cases fragrant, memory. On the other hand, the two Senators from Vermont were elected to the Senate a dozen or fifteen years after leaving the Governor's chair, and Senator McLean had

<sup>1</sup> Both of the Senators from Kentucky and also Senator Smith of Michigan received early inspiration for the lawmaker's career while serving as pages in the State Legislature. It may be recalled that the late Senator Gorman of Maryland got his first insight into statecraft as a page in the United States Senate at the tender age of thirteen, and that he continued fourteen years in its employ.

<sup>2</sup> Senator Robinson's service as Governor was not very extended. He was inaugurated January 16, 1913, and elected to the Senate twelve days later.



been out of the governorship nine years before he entered the Senate.

Twenty years from now will the Senate still be called a "millionaires' Paradise," or "rich mens' club"? Those names have been rather less in use of recent years. No trustworthy data are available as to the "presence of wealth" in the Senate. In these days of the income tax, the label "millionaire" is not conspicuously displayed. In the Senate to-day there are ten or a dozen men whose names used to appear in the press lists of millionaires a few years ago. Since then, wealth has so increased that the public has ceased to be interested in lists of mere millionaires. While a large element of men of great wealth in the Senate would tend to make that body ultra-conservative as to property interests, it is well, for the future as for the present, to remember that in a legislative body the greatest menace comes from those who are there not because they are rich, but because they hope to be rich.

A man's progress in politics may often be aided by the associations which he has formed with other men in lines quite other than political. In not a few cases Senators have doubtless received loyal support from their brethren in the great secret orders. Thus Senator Perkins has been "grand master of the grand lodge, F. & A. M. of California; also grand commander of the grand commandery of the Knights Templar, State of California; he is also a member of the California Commandery of the Military Order of the Loyal Legion." Luke Lea, youngest of the Senators, in his eight-line autobiographical sketch, does not fail to mention that he is "a thirty-second degree Mason." Morris Sheppard, of Texas, lays stress upon his having been four times elected "sovereign banker, or national treasurer, Woodmen of the World, the second largest fraternal insurance order in the United States." But Senator Owen, of Oklahoma, apparently holds the record as a "joiner," with this highly congruous array of memberships: "is an Episcopalian; Mason, 32 degrees; Mystic Shrine; Knight Templar; A T Ω; Φ B K; Elk; Moose (but not "Bull Moose"); M. W. A., etc."

Now that popular election has become the process required by law, how much more responsive to the people's will is the Senate likely to become? In the first place, it is to be remembered that in States where one party has been

in undisputed ascendancy the real choice had long ago been shifted back from the Legislature to the contest for the party nomination, formerly in the State convention, more recently in the State-wide direct primary. Thus, in most of the Southern States for many years contests in the Legislatures over Senatorial elections have been unknown. It is said that in at least one of the States members of the Legislature were regularly placed under oath to support the candidate who had won the party nomination. In the doubtful States, also, new elective methods had been devised to meet new conditions.

As soon as the Oregon system, which is now familiar to every one and does not need to be gone into in detail, had demonstrated its effectiveness as an agent of popular control over Senatorial elections, other States, in every section of the country, began to adopt some modification of the Oregon method. It was, therefore, no accident that in 1911, when for the first time the popular-election amendment was allowed to come to a vote in the Senate, it failed of adoption by only four votes, and that a few months later the Senate majority in its favor was overwhelming.

No one can read the sketches which the Senators have given of their careers in the *Congressional Directory* without being convinced that the transformation of the Senate which the advocates of this amendment have been trying to effect has already in large measure been realized. More than a third of the Senators, representing States scattered all over the country, set forth with great emphasis the details of their canvass of the State, or of the direct primary, or of the popular vote which was the determining factor in their election.

The fact of the matter is that at least one in three of the present members of the Senate holds his seat by popular mandate practically as direct and authoritative as that which for the future, under the new amendment, is to summon to the Senate the men who will favor "the things that the people love." And from other States, where the machinery of popular control had not yet been developed, nevertheless, to a greater extent than in any previous decade, the majority of Senators have become sensitive to the people's wish. An intelligent forecast of the future will therefore base itself on analysis of tendencies which have been making themselves evident for at least a decade.

The writer is no new convert to the belief that Senators should be elected by the direct vote of the people. Yet his conviction as to the wisdom of the change effected by the Seventeenth Amendment arose far more from observation of the influence of the legislative election of Senators within the States than from optimistic assurance that the personnel or efficiency of the Senate would be notably improved by popular election. Within the States the election of Senators by the Legislatures has long been productive of serious evils: it has blurred issues for the voter in electing members to the Legislature; it has distracted the legislators' attention from the normal work of lawmaking for their State; it has led to the serious interruption of State business, even to the entire suspension of the lawmaking function in one State for two years; the protracted deadlocks have not only aroused bitter animosities, but have often resulted in depriving the State of a voice in the Senate, or in stampeded elections which bore no resemblance to a judicious choice, or in abundant rumors—too often well-grounded—of bribery and corruption. From these and divers other evils popular election should set us free.

He who, at this stage of American political development, confesses to uncertainty whether the Senate will forthwith be "reformed" by popular election will doubtless bring down upon himself the charge which in recent years has become so fashionable against the framers of the Constitution—that of fearing to "trust the people." Under the new mode of choice we have a right to expect that it will be less easy for certain types of men, who have brought reproach upon the Senate, to secure election to that body. The reactionary, who has heretofore secured re-election largely through the activities of a patronage-favored machine, should disappear. The State "boss" may find the voters at large less docile in his support than have been members of the Legislature whom he has helped to office. A candidate who is obviously backed by a railroad or a "trust" will stand less chance of election than under the old system, but during a six-year term unsuspected fealty to such interests may make itself evident. It is doubtful whether the charge that the Senate is a "rich men's club" will have much less basis in the future than in the past. American voters have shown little hesitation to elect the "merely rich man" to the Governorship or to Congress. One of the

most conspicuous Senators of this type in recent years had twice been elected Governor of his State before he was sent to the Senate.

It is salutary to reflect that—whatever may have been the defects and abuses which manifested themselves in connection with the legislative election of Senators—it was under that now-derided system, nevertheless, that the Senate did attain its dominance in our national Congress and its pre-eminence among the upper chambers in national Legislatures of the present day.

Are there indications that popular election may impair the Senate's high tradition and prestige? It seems evident that, with the growing directness of responsibility to the people, the type of Senator is undergoing change. While it may prove to be a passing phase, due to blurred party lines, nevertheless Senatorial service is now obviously growing shorter. This involves a loss in experienced statecraft, which in the past has given to the country some of its ablest leaders. The Senators of the present day are younger than their predecessors; they have come to their membership in the foremost legislative body of the world with less of law-making experience than their predecessors had had. Moreover, there seems to be a distinct and psychologically explicable tendency to turn from men wise in council—who have made the reputation of the Senate in the past—to men of the more dramatic executive qualities. An aptitude for getting things done makes a stronger appeal to the voter than a capacity for deliberate—perhaps too deliberate—study of what it is wise to do. Many a Senator, whose work has been most serviceable, has had few gifts that would make him a successful vote-catcher. For the future it is going to be harder for a Senator of manly independence to hold to a course which does not square with the opinion of the day; for his chance of re-election will be largely determined not by whether his acts have been wise, but by whether they have been popular. In our exultation over the prophesied banishment from the Senate of the reactionaries, the “representatives of predatory wealth,” and other belated survivals, we have reason for some concern lest our upper chamber is losing something of the distinction of manner, the type of mind, the poise of judgment, which have characterized our foremost Senator-statesmen. In our haste to be rid of the conservative, is there no danger that we shall at

the same time turn out the conservator? Already certain portentous candidacies have been launched. Almost the first in the field was the notorious Governor of a Southern State, who opened his campaign September 3, 1913, before two thousand cotton-mill operatives, in a characteristic harangue on the charges of drinking and poker-playing which had been made against him, and asked to be sent to the Senate so that in Congress he could carry forward his "fight for the virtue and womanhood of the South." It is easy to dismiss such rant as "full of sound and fury, signifying nothing"; but the ominous fact remains that this man, by his anarchistic utterances, and by his reckless abuse of the pardoning power, was made the chief executive of that proud State by the direct vote of the people. In Massachusetts, less than a year ago, it will be recalled, a mayor and a Congressman who had served a jail sentence for an offense which struck at the very integrity of the public service, were apparently jockeying for their party's candidacy for the Senate. Both of these men, it is to be remembered, held their positions of high responsibility by popular election, based on the direct primary; yet it is doubtful if either of them would have seriously aspired to a seat in the Senate by election of a Massachusetts Legislature controlled by their own party. The Bay State sent Benjamin F. Butler to Congress for repeated terms and made him Governor by popular vote, but her Legislature never sent a man of his type to the Senate. Fortunately, the above-cited cases are exceptional. But let the reader, whose indignation is stirred by any indication of skepticism as to the beneficence of all the results to be expected from popular election, call to mind the candidacies for the Senate already under discussion in his own State, and ask himself how many of them are of the standard which would maintain the prestige and best traditions of the Senate.

The Senate is not to be "reformed"—so far as reform is necessary—by a mere change in the mode of election. There are, it is true, many hopeful aspects of the shift of election from the Legislatures to the people. The people are to be trusted—else is our hope in democracy vain—when they see clearly what is needed. But the qualities which make the sagest councilor and most effective lawmaker are not the most obvious. It is, therefore, a matter of the utmost concern that the requisites for statesman-like Senatorial service

be thoroughly discussed and the qualifications of willing candidates be critically examined. Eternal vigilance did not cease to be the price of liberty from the moment when the Seventeenth Amendment became a part of the Constitution. That change in our Constitutional law has removed one set of corrupting and degrading influences; in some important respects it has given well-meaning, patriotic voters a better chance to secure and maintain control. But from this change we may expect not gain, but loss, in the personnel and effectiveness of the Senate, if we rest in the belief that the ratification of the new amendment is in itself a final victory. It brings, rather, a challenge to every conscientious voter to use his new power with discrimination and with a sense of the grave responsibility which is now placed directly upon him. To all who through the press or through voluntary associations assume responsibilities in guiding public opinion, it brings a more imperative duty to see that that guidance be not petty and partisan, but enlightened and disinterested.

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